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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of Numbering Resource Optimization	CC Docket No. 99-200

REPLY COMMENTS OF BELLSOUTH

BELLSOUTH CORPORATION

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EXECUTIVE SUMMARY

The opening comments responding to the *Further Notice of Proposed Rulemaking* ("*FNPRM*") in the *Numbering Resource Optimization* proceeding overwhelmingly demonstrate that all interested parties have the same goals in mind – to ensure that limited numbering resources are used efficiently; to minimize the impact of premature code exhaust on consumers; and to ensure that all carriers have access to the numbering resources needed to compete in the telecommunications market. Despite these common goals, the parties propose different methods to attain them. On the one hand, state regulators, for example, propose high utilization threshold requirements and object to granting Commercial Mobile Radio Service ("CMRS") carriers a transition period before the implementation of number pooling. On the other hand, carriers of all size and time in the marketplace support: (1) either complete elimination of the utilization threshold requirement or, at a minimum, a more flexible utilization framework; (2) a reasonable transition period for CMRS carriers; and (3) some form of cost recovery. BellSouth sets forth below its positions and urges the Commission to adopt the proposals identified herein.

Utilization Threshold for Non-Pooling Carriers. The Commission should reconsider its decision to adopt a utilization threshold requirement for non-pooling carriers. A number of commenters demonstrate that a utilization threshold will not solve the problem of number exhaust. Optimization measures, such as the allocation of numbers in blocks of 1,000 and rate center consolidation, will better promote more efficient number usage than utilization thresholds. Consequently, BellSouth and others support the use of Months-To-Exhaust, rather than utilization thresholds, to evaluate a carrier's need for numbering resources.

However, if the Commission decides to retain the utilization threshold requirement for non-pooling carriers, BellSouth recommends that the Commission take the following actions:

(1) modify the formula for calculating utilization to include aging, administrative, reserved, and intermediate numbers in order to more accurately reflect those numbers unavailable for assignment;

(2) using the modified formula, set the initial threshold at 60 percent with five percent annual increases;

(3) continue to exempt pooling carriers from complying with a utilization threshold requirement ;

(4) establish a single utilization threshold that applies only in "shortage" situations and does not distinguish among different types of non-pooling carriers;

(5) establish a utilization threshold that is calculated at the rate center level, or at the switch level if a carrier operates multiple switches in a single rate center;

(6) ensure that non-pooling carriers with low utilization can still obtain growth codes if a legitimate business need exists; and

(7) prohibit states from adopting their own utilization thresholds.

Transition Period for Commercial Mobile Radio Service ("CMRS") Carriers. The record convincingly demonstrates that the Commission should grant CMRS carriers a transition period after the implementation of wireless number portability to begin pooling. A reasonable transition period is necessary to allow CMRS carriers time to deal with the various technical challenges associated with the implementation of local number portability and nationwide roaming prior to the implementation of number pooling. Thus, the Commission should grant CMRS carriers a twelve-month transition period in order to ensure network reliability, maintain service integrity, and implement the modifications necessary to support number pooling.

Cost Recovery. The network and operational support system ("OSS") modifications required to implement number pooling are quite extensive and result in substantial costs. BellSouth believes that carriers are entitled to full cost recovery and recommends that the Commission adopt a recovery mechanism similar to that adopted in the number portability proceeding. Specifically, BellSouth supports allowing incumbent local exchange carriers to recover their carrier-specific pooling costs directly related to implementing pooling either by extending the duration or increasing the amount of the current number portability surcharge.

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BellSouth Corporation, by counsel and on behalf of itself and its affiliated companies ("BellSouth"),[1] respectfully submits its reply comments in response to the *Further Notice of Proposed Rulemaking* ("*FNPRM*") adopted in the above-captioned proceeding.[2] These reply comments will address the following topics: (1) the utilization threshold requirement for non-pooling carriers; (2) the timing of pooling implementation for CMRS carriers; and (3) the costs associated with number pooling.

I. A UTILIZATION THRESHOLD REQUIREMENT FOR NON-POOLING CARRIERS IS UNNECESSARY TO PROMOTE THE EFFICIENT USE OF NUMBERING RESOURCES.

A number of commenters join BellSouth in acknowledging that the Commission need not impose a utilization threshold requirement on non-pooling carriers in order to promote the efficient use of numbering resources. BellSouth, the Competitive Telecommunications Association ("CompTel"), Verizon Wireless ("Verizon"), and

[1] BellSouth Corporation is a publicly traded Georgia corporation that holds the stock of companies that offer local telephone service, provide advertising and publishing services, market and maintain stand-alone and fully integrated communications systems, and provide mobile communications and other network services world-wide.

[2] *Numbering Resource Optimization*, CC Docket No. 99-200, *Report and Order and Further Notice of Proposed Rulemaking*, FCC 00-104 (rel. Mar. 31, 2000) ("*NRO Order*" and "*FNPRM*").

VoiceStream Wireless Corporation ("VoiceStream"), among others, agree that the various conservation measures adopted in the *Numbering Resource Optimization Order ("NRO Order")* will better meet the Commission's goal of "prevent[ing] carriers from 'stockpiling' or carrying excessive inventories of numbers" than would a utilization threshold.[3] According to these parties, the newly adopted measures – including the enhanced enforcement authority granted to the North American Numbering Plan Administrator ("NANPA"), the mandatory reporting requirements, the streamlined reclamation process, and the upcoming audits – are more than adequate to manage a carrier's utilization.[4]

Moreover, a utilization threshold will not solve the problem of number exhaust. Contrary to the assertions of several state commissions, a high utilization will not eliminate area code exhaust. As BellSouth stated in its initial comments[5] and the Commission has acknowledged, one of the principal drivers of number exhaust is the traditional "allocation of numbers in blocks of 10,000 [per rate center], irrespective of the carrier's actual need for new numbers."[6] The *NRO Order* seeks to address this problem by changing the way numbers are allocated to carriers.[7] This modification will promote more efficient number usage. Thus, the Commission should seriously consider whether

[3] CompTel Comments at 3; *see, e.g.*, BellSouth Comments at 3; Verizon Comments at 2 n.3; VoiceStream Comments at 6-7.

[4] *See, e.g.,* BellSouth Comments at 3; CompTel Comments at 3; VoiceStream Comments at 6-7.

[5] BellSouth Comments at 15.

[6] *NRO Order*, ¶ 4.

[7] BellSouth also encourages state commissions to do their part to address number exhaust. Specifically, BellSouth recommends that state regulators examine revenue-neutral rate center consolidation to determine whether it can be successfully used in combination with other conservation measures.

there is a need for the utilization threshold requirement. BellSouth submits that the answer is no.

A. The Use Of Months-To-Exhaust To Evaluate A Carrier's Need For Additional Numbering Resources Is More Effective Than The Use Of A Utilization Threshold.

As a number of commenters demonstrate, Months-to-Exhaust ("MTE") is a more effective way to evaluate the demand for numbering resources than the use of utilization thresholds.[8] While utilization reporting may provide useful information for monitoring purposes, there are several reasons why the Commission should not tie a carrier's access to numbers to a fixed utilization percentage.

First, a utilization threshold requirement fails to take future telephone number demand into account, and as Cox Communications, Inc. ("Cox") points out, "may not reflect the carrier's future business plan or changed circumstances."[9] Assume that the Commission or a state regulator establishes 80 percent as the utilization threshold necessary to obtain a growth code. Before a carrier could apply for a growth code, it would have to satisfy the 80 percent threshold. In other words, 80 percent (or 8,000) of its telephone numbers in an NXX code would have to be assigned, thereby leaving 2,000 numbers. There is evidence in the record that at least 10 to 15 percent of any 10,000-block of numbers is unavailable for assignment because some of these are aging, administrative, reserved, or intermediate numbers.[10]

[8] *See, e.g.*, Nextel Communications, Inc. ("Nextel") Comments at 3; Personal Communications Industry Association ("PCIA") Comments at 3-4; Sprint Comments at 2-3; United State Telecom Association ("USTA") Comments at 2; Verizon Comments at 2 n.3; VoiceStream Comments at 10-11.

[9] Cox Comments at 4.

[10] *See* AT&T Comments at 6; SBC Comments at 8.

Based on a conservative estimate, if we assume that 10 percent of the 10,000-block of numbers (1,000) is unassignable at any given time and 8,000 numbers would have to be assigned based on the threshold, the carrier would be left with 1,000 assignable numbers. These numbers would have to last from the day the carrier discovers that the demand is occurring, through the time required to prepare and submit the code request to the NANPA, and through the minimum 66-day NXX activation interval. In many instances, a supply of 1,000 numbers is inadequate to meet customer demand. As the Cellular Telecommunications Industry Association ("CTIA") explains, "[w]ireless carriers in some of the largest markets may assign over 1,000 numbers every week."[11] Such a numbering resource deficit puts carriers in the undesirable position of choosing between running out of numbers or expediting the activation of a growth code. The former solution results in customers being told that they must wait to get service because of the unavailability of numbers. The latter could result in blocked calls.[12] These two results are equally unappealing and disruptive to customers.

Another disadvantage of utilization thresholds is that they do not take into account the special needs of customers. Even the Commission has recognized that a "strict fill-rate regime may not accommodate customers' requests for specific numbers or specific

[11] CTIA Comments at 8 (footnote omitted) (emphasis added).

[12] The first 21 days of the industry standard minimum 66-day NXX activation interval are for code assignment (14 days) and input of code data into the Local Exchange Routing Guide ("LERG") by the code assignee (7 days). Once the code assignment data has been placed in the LERG, all impacted carriers have 45 calendar days to make the necessary changes to their switches in order to recognize the new code. There may not be adequate time for carriers to modify their switches if the code must be activated on an expedited basis (in less than 45 days) thereby possibly leading to blocked calls to the new NXX code.

ranges of numbers."[13] For example, businesses commonly employ private branch exchanges ("PBXs") that utilize specific digits such as "0" to access the PBX operator, "8" to access a WATS line, and "9" to access an outside line. These customers obtain numbers in blocks and require that the numbers be consecutive. A carrier could be well under the hypothetical 80 percent utilization threshold and still be unable to meet a customer's demand for consecutive numbers.

In light of the foregoing, the Commission should seriously consider whether there is a need for a utilization threshold requirement. The record unambiguously shows that a number of circumstances exist in which a carrier's utilization rate does not accurately reflect its need for numbering resources. Nearly every commenter (state regulators, consumer groups, CLECs, and ILECs) recognizes this disparity and emphasizes the need for a mechanism that will allow a non-pooling carrier with low utilization to still obtain growth codes if a legitimate business need exists.[14] Commenters use a variety of terms to describe this process – "safety valve,"[15] "appeal,"[16] "safety net,[17] "waiver,"[18] "rebuttable

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[13] *Florida Public Service Commission Petition to Federal Communications Commission for Expedited Decision for Grant of Authority to Implement Number Conservation Measures*, CC Docket No. 96-98; NSD File No. L-99-33, Order, FCC 99-249, ¶ 30 (rel. Sept. 15, 1999).

[14] *See, e.g.,* Ad Hoc Telecommunications Users Committee ("Ad Hoc Users Committee") Comments at 5; BellSouth Comments at 6-7; CompTel Comments at 2-4; CTIA Comments at 11-12; GTE Comments at 8-9; Maine Public Utilities Commission ("Maine PUC") Comments at 3-4; MediaOne Group, Inc. ("MediaOne") Comments at 3, 5-6; New Hampshire Public Utilities Commission ("NH PUC") Comments at 4; New York State Department of Public Service ("NYDPS") Comments at 2; PCIA Comments at 4-6; Sprint Comments at 2; USTA Comments at 3; US WEST Comments at 5; Verizon Comments at 6; Winstar Communications, Inc. ("Winstar") Comments at 3-4.

[15] Sprint Comments at 3.

[16] USTA Comments at 3.

[17] MediaOne Comments at 3.

[18] Maine PUC Comments at 3.

presumption."[19] Regardless of the name chosen, the parties all have the same goal in mind – to ensure that non-pooling carriers are not precluded from obtaining numbers in a timely manner regardless of their ability to satisfy a rigid utilization requirement.

PCIA, Winstar, and a number of other commenters describe the various circumstances in which a non-pooling carrier might need a growth code despite low utilization. These scenarios include: (1) meeting consumer demand in a high growth area; (2) fulfilling a single order from a large customer; (3) fulfilling simultaneous orders from multiple customers; (4) introducing a new service offering or promotion on existing products and services; (5) preparing for seasonal demands; (6) competing with other carriers to serve a new subdivision, office park or campus; (7) offering specialized services such as calling party pays or reverse toll billing; or (8) migrating from Type 1 to Type 2 interconnection.[20] Considering the many scenarios identified above, it is very well possible that this "exception" process could become the "norm."

The Commission can avoid creating an administrative nightmare for the NANPA and carriers by eliminating the utilization requirement for non-pooling carriers. A strict utilization requirement is not a panacea for number exhaust and, in fact, has several weaknesses, as demonstrated above. Furthermore, as PCIA states, "it would be overly difficult, if not impossible, to select a rational and non-discriminatory 'one-size-fits-all' utilization threshold if that threshold is the sole basis upon which applications for additional numbering resources are evaluated."[21]

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[19] Verizon Comments at 6.

[20] PCIA Comments at 4; *see, e.g.,* BellSouth Comments at 7; Verizon Comments at 7-11; Winstar Comments at 4.

[21] PCIA Comments at 3.

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In sum, BellSouth believes that Months-To-Exhaust ("MTE") is a more accurate and reliable way to evaluate a carrier's need and customer demand for numbering resources. Months-to-Exhaust, unlike utilization thresholds, takes into account both historical and anticipated demand for numbers as well as current utilization data. In light of the foregoing and the recent Industry Numbering Committee ("INC") modifications to the mandatory MTE worksheet, the Commission should reverse its decision to make access to growth codes contingent on meeting a utilization threshold.

B. The Commission Should Not Further Reduce The Six-Month Inventory Interval.

In the *NRO Order*, the Commission concluded that carriers are entitled to a six-month inventory of numbers "to assure adequate access to numbering resources . . . ."[22] BellSouth supports this conclusion and objects to proposals to shorten the inventory interval any further. A reduction below six-months, as suggested by Cox and Sprint,[23] would inevitably result in carriers being denied access to numbers, which, in turn, would lead to customers being denied service. As discussed above, under normal circumstances, it takes a minimum of 66 calendar days from the date of a code request until an NXX becomes effective. A three-month supply of numbers – as proposed by Cox and Sprint – would allow little room for error and could leave carriers with an inadequate supply of numbers. Accordingly, the Commission should not reduce the existing six-month inventory interval.

[22] *NRO Order*, ¶ 189.

[23] Cox Comments at 3-4; Sprint Comments at 4.

II. IF THE COMMISSION PROCEEDS WITH THE ADOPTION OF A UTILIZATION THRESHOLD REQUIREMENT, IT SHOULD MODIFY THE UTILIZATION FORMULA TO REFLECT MORE ACCURATELY THOSE NUMBERS THAT ARE UNAVAILBLE FOR ASSIGNMENT.

The parties overwhelmingly agree that the Commission's current method for calculating utilization is flawed. The Association for Local Telecommunications Services ("ALTS"), Bell Atlantic, PCIA, SBC, and Sprint, among others, demonstrate that excluding certain categories of numbers "may cause significant distortions, and prevent carriers with insufficient numbering resources from obtaining additional resources."[24] Thus, the Commission should modify the formula so that the numerator includes, in addition to assigned numbers, aging, administrative, reserved, and intermediate numbers. The rationale for including these categories is clear – these numbers are unavailable for assignment to end-users. If these categories are excluded from the calculation, as the Commission proposes, the utilization rate greatly overstates the numbers available for assignment. If the Commission retains the existing formula, the utilization thresholds based on this methodology would have to be significantly lower than the thresholds proposed by state regulators.

The commenters have provided the Commission with a clear roadmap to resolve this inconsistency. Since one of the Commission's stated goals is to "facilitate the accurate monitoring and tracking of the availability of numbering resources in the NANP,"[25] the Commission should ensure that the formula for calculating number usage is as accurate as possible. As SBC points out, "by excluding major categories of numbers

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[24] ALTS Comments at 4; *see, e.g.,* Bell Atlantic Comments at 7; PCIA Comments at 7-11; SBC Comments at 7-8; Sprint Comments at 5-6; Time Warner Telecom ("Time Warner") Comments at 3-5.

[25] *NRO Order*, ¶ 13.

that are in actual use or are otherwise unavailable, the *NRO Order* utilization reports will present misleadingly low rates of utilization."[26] SBC further warns that the "*NRO Order's* utilization rate thus will significantly understate the actual use of telephone numbers, and potentially will lead public policy makers and the public to conclude that the industry is using telephone numbers less efficiently."[27]

This forewarning has become a reality as several state commissions have misinterpreted current utilization data by erroneously comparing such data to rates calculated under the Commission's new formula. As AT&T correctly points out, "[s]tates that have adopted a utilization rate of 75 percent or higher have calculated the rate based on 'unavailable' numbers, which, . . . is fundamentally different from basing the utilization rate on numbers that are 'assigned.'"[28] None of the state regulators proposing these higher thresholds recognize or even address the flaws in the existing formula. Therefore, these state recommendations must be put into the proper context. As AT&T further explains, "[b]ecause the NRO Order fundamentally changes the method formerly used to calculate utilization rates, there is simply no basis to assume that the higher thresholds currently employed by some states should be carried forward under the new framework proposed by the Commission."[29] BellSouth agrees.

Accordingly, the Commission should modify the utilization formula to include aging, administrative, reserved, and intermediate numbers. As discussed above, the

[26] SBC Comments 7-8.

[27] *Id.* at 8.

[28] AT&T Comments at 4 n.4.

[29] *Id.* at 4.

current formula is misleading and does not accurately reflect the numbers unavailable for assignment.

If the Commission modifies the formula as proposed above, BellSouth would support an initial threshold of 60 percent with annual increases of five percent. BellSouth encourages the Commission to defer setting a maximum threshold until it has had an opportunity to review actual utilization data. Should the Commission instead decide to retain its existing methodology for calculating utilization, it should set the initial threshold at 50 percent with annual increases of five percent up to a maximum of 70 percent. Nevertheless, BellSouth cautions the Commission against being too aggressive at this early stage. As SBC points out, "an 80 percent threshold very possibly could require a carrier to meet an actual utilization rate of *95 percent* before it could be assigned additional numbers. In such a situation, the carrier clearly would not be able to maintain a reasonable inventory to conduct its business."[30] Thus, it is possible that even a 70 percent threshold may be too high, thereby jeopardizing a carrier's ability to obtain numbers in a timely fashion. Again, the best approach would be to wait and review actual data that is based on the appropriate formula before setting the upper threshold. If the Commission later concludes that the threshold is too low, it can re-visit the issue and modify the requirements accordingly.

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[30] SBC Comments at 11 (emphasis included).

III. IF THE COMMISSION PROCEEDS WITH THE ADOPTION OF A UTILIZATION THRESHOLD REQUIREMENT, IT MUST ENSURE UNIFORM, NATIONAL REQUIREMENTS AND TIMELY ACCESS TO NUMBERING RESOURCES.

A. The Commission Should Affirm Its Decision To Exempt Pooling Carriers From Complying With The Utilization Threshold Requirement.

Contrary to the suggestion of the Oregon Public Utility Commission ("Oregon PUC"), the Commission should not require all carriers to meet a utilization threshold.[31] First, as demonstrated in Section I, a utilization requirement will not solve the problem of area code exhaust, whether applied to pooling or non-pooling carriers. Second, the Commission weighed the costs and benefits of imposing this obligation on pooling carriers and properly concluded that an exemption was appropriate given the participation of pooling carriers in the donation of thousands-blocks.[32] The Commission clearly stated that it might "revisit the question of whether all carriers should be subject to meeting a utilization threshold to obtain growth numbering resources if [it] find[s] that such thresholds significantly increase numbering use efficiency."[33] Therefore, it is premature at this time to impose this requirement on all carriers. The Commission has the flexibility to re-evaluate the situation after the various conservation measures adopted in the *NRO Order* have had time to work. Therefore, the Commission should reject proposals to apply a utilization threshold requirement to carriers participating in number pooling.

[31] *See* Oregon Public Utilities Commission ("Oregon PUC") Comments at 4.

[32] *See NRO Order*, ¶ 103.

[33] *NRO Order*, ¶ 103.

B. The Utilization Threshold Requirement Should Apply Only In "Shortage" Situations.

If the Commission adopts a utilization threshold requirement for non-pooling carriers, BellSouth supports Verizon's recommendation to apply the threshold only in "shortage" situations. Specifically, Verizon proposes that utilization thresholds apply "only in NPAs that are in jeopardy and in NPAs where number pooling is actually in use, with eligibility for growth codes elsewhere determined exclusively by months-to-exhaust, instead of a specific utilization threshold."[34] This approach strikes a balance between the Commission's desire to include non-pooling carriers in number optimization efforts and its desire not to impede the ability of non-pooling carriers to meet customer demand. In addition, this approach is more consistent with the recommended use of Months-To-Exhaust as discussed in Section I.

C. The Commission Should Not Apply Different Utilization Requirements To Non-Pooling Carriers Based On Tenure In The Marketplace.

The Commission should reject Winstar's proposal to create a two-tier framework for utilization. Under Winstar's proposal, carriers that have been in the market for three years or less would be required to meet a lower utilization rate, while carriers in the market for more than three years would have to meet a higher utilization threshold.[35] Contrary to Winstar's suggestion, this approach is not competitively neutral.[36] The Commission should not treat new entrants any differently than more established carriers. All service providers – no matter their size, length of time in the marketplace, type of

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[34] Verizon Comments at 3.

[35] Winstar Comments at 6.

[36] *See* Winstar Comments at 6.

customer served, or type of service provided – should have equal access to numbering resources. The driver for additional growth codes is need, not a utilization rate. Moreover, in the *NRO Order*, the Commission already "decline[d] to require different utilization criteria for different market segments . . . ."[37] It did so "in order to maintain competitive neutrality in the number assignment process."[38] Accordingly, the Commission should reject Winstar's proposal to apply different utilization thresholds to different carriers.

D. The Commission Should Apply Utilization Thresholds At The Rate Center Level, Or At the Switch Level If A Carrier Operates Multiple Switches In A Single Rate Center.

The commenters overwhelmingly agree that the Commission should not apply utilization thresholds at the NPA level.[39] The *NRO Order* set forth the many valid reasons why rate center-based utilization is preferable to NPA-based utilization. Specifically, the Commission concluded that utilization calculated on a rate-center basis is superior because it:

- more accurately reflects how numbering resources are assigned;[40]
- avoids the problems created by mixed suburban/rural NPAs; [41] and

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[37] *NRO Order*, ¶ 106.

[38] *Id.*

[39] *See, e.g.*, ALTS Comments at 3-4, 6; AT&T Comments at 7; CompTel Comments at 5; Pennsylvania Office of Consumer Advocate, et al. "(Joint Consumer Advocates") Comments at 11-12; California Public Utilities Commission ("CPUC") Comments at 6; MediaOne Comments at 3-4; Missouri Public Service Commission ("Mo PSC") Comments at 2-3; NEXTLINK Communications, Inc. (NEXTLINK") Comments at 5; Nextel Comments at 3; PCIA Comments at 7; Sprint Comments at 8-9; Time Warner Comments at 6; USTA Comments at 4-5; Winstar Comments at 9-10; WorldCom Comments at 3.

[40] *NRO Order*, ¶105.

[41] *Id.*

- provides state commissions with additional information on which to evaluate rate center consolidation.[42]

BellSouth urges the Commission to reject the CPUC's request to apply the utilization threshold at the rate center level for wireline carriers, and at both the rate center level and the NPA level for wireless carriers.[43] First, most wireline carriers are capable of providing local number portability and therefore are required to participate in pooling; consequently, by Commission mandate, these carriers are not subject to a utilization threshold. As discussed earlier, the Commission should continue to exempt pooling carriers from complying with a threshold requirement. Second, the Commission and the commenters have extensively detailed the problems associated with NPA-based utilization. No commenter has presented evidence sufficient to warrant a change in the Commission's rule. As PCIA explains, "a carrier's utilization rate has no rational relationship to its need for additional numbering resources in a particular rate center because numbers are not fungible resources that can be shared between states, NPAs or even rate centers."[44] Thus, the Commission should not require NPA-based utilization.

In addition to rate center-based utilization, BellSouth supports those commenters such as USTA requesting that the Commission apply the utilization threshold at the switch level in those situations where a carrier "operates multiple switches in a single rate center."[45] Bell Atlantic likewise explains that "a carrier should be able to get additional numbers when its supply is low at a particular switch even if it has other numbers

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[42] *NRO Order,*¶ 105.

[43] *See* CPUC Comments at 5-6.

[44] PCIA Comments at 7.

[45] USTA Comments at 4.

elsewhere in the rate center."[46] Thus, any utilization threshold requirement adopted by the Commission should apply at the rate center level, or at the switch level if a carrier operates multiple switches in a single rate center.

E. The Commission Must Allow Non-Pooling Carriers With Low Utilization To Obtain Growth Codes If There Is A *Bona Fide* Need.

As discussed above in Section I, utilization rates do not accurately reflect a carrier's need for numbering resources. The record convincingly demonstrates that "regardless of the threshold level that may ultimately be adopted, it is imperative that the Commission adopt a 'safety valve' so that . . . carriers facing imminent exhaust can obtain the additional numbering resources they need – even though at the time of the application they do not meet the specified 'utilization threshold.'"[47]

Plans to expand existing geographic service areas or offer service promotions, to name a few examples, should constitute legitimate business needs that warrant granting a request for additional codes despite less-than-required utilization. Under these circumstances, a carrier should not be precluded from obtaining numbering resources simply because it has not met the utilization threshold. The majority of commenters therefore propose that, if the Commission adopts a utilization requirement, it establish a process whereby a non-pooling carrier can make a *bona fide* showing to obtain a growth code even if it has not met the requisite threshold.

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[46] Bell Atlantic Comments at 8.

[47] Sprint Comments at 3.

F. The Commission Should Not Allow Individual States To Establish Their Own Utilization Thresholds.

BellSouth joins various commenters in urging the Commission to prohibit state commissions from setting their own utilization thresholds. State regulators, on the other hand, propose that the Commission grant them discretion and flexibility in adopting utilization thresholds.[48] In fact, several state commissions ask the Commission to establish a range within which states may set the utilization threshold.[49]

A state-by-state approach conflicts directly with the Commission's call for a uniform, national approach to numbering resource optimization. As Bell Atlantic explains, deference to the states in this area would result in the "sort of patchwork numbering administration that Congress sought to avoid when it clearly gave the Commission exclusive jurisdiction."[50] Moreover, the commenters demonstrate the many administrative difficulties associated with granting state commissions individual authority to establish utilization requirements. For example, as AT&T correctly points out:

> Allowing state commissions to set utilization thresholds would make it considerably more difficult for the NANPA to administer code allocations and for auditors to confirm carriers' compliance with varying requirements. Moreover, requiring carriers to contend with different utilization thresholds from state to state or rate center to rate center would add tremendous complexity and expense to their efforts to manage inventories, with no readily apparent increase in the efficiency of number usage.[51]

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48 *See, e.g.*, CPUC Comments at 2-3; Mo PSC Comments at 2-3; NH PUC Comments at 3; Texas Public Utility Commission ("TX PUC") Comments at 2.

49 *See, e.g.*, MO PUC Comments at 2-3; NH PUC Comments at 2; TX PUC Comments at 2.

50 Bell Atlantic Comments at 8.

51 AT&T Comments at 7.

Finally, BellSouth agrees with Sprint that "[c]arriers can achieve substantial cost efficiencies by following one set of rules nationwide."[52] Thus, the Commission should not permit state commissions to adopt their own utilization threshold requirements.

* * *

In sum, BellSouth continues to believe that a utilization threshold requirement is a less effective means to evaluate a carrier's need for numbering resources than Months-To-Exhaust. Nonetheless, if the Commission adopts a nationwide utilization threshold, BellSouth urges the Commission to: (1) modify the current utilization formula to include aging, administrative, reserved, and intermediate numbers in the numerator; (2) set the initial threshold at 60 percent with five percent annual increases; (3) continue to exempt pooling carriers from the utilization threshold requirement; (4) establish a single utilization threshold that does not distinguish among different types of non-pooling carriers and applies only in number "shortage" situations; (5) establish a utilization threshold that is calculated at the rate center level, or at the switch level if a carrier operates multiple switches in a rate center; (6) ensure that non-pooling carriers with low utilization are not precluded from obtaining growth codes when there is a demonstrable and legitimate need; and (7) prohibit state regulators from adopting their own thresholds.

IV. THE RECORD SUPPORTS GRANTING CMRS CARRIERS A TWELVE-MONTH TRANSITION PERIOD BEFORE THE COMMENCEMENT OF POOLING.

BellSouth and a number of other parties strongly urge the Commission to grant CMRS carriers a transition period between the implementation of wireless local number

[52] Sprint Comments at 9.

portability ("LNP") and the commencement of number pooling.[53] The proposed transition periods range from six months to a year.[54] The record clearly demonstrates that it is essential to allow CMRS carriers time to address the technical challenges associated with providing wireless LNP and nationwide roaming on a flash-cut basis before implementing pooling. As AT&T points out, "[f]ailure to provide a transition period to ensure that LNP is functioning properly on a nationwide basis could result in major service disruptions to the detriment of both wireline and wireless subscribers."[55] Thus, contrary to the CPUC's statement that "[n]ot one carrier has identified a single technical obstacle that would be difficult or impossible to overcome by November 24, 2002,"[56] the record is replete with evidence of the difficulties and risks associated with the simultaneous implementation of LNP and pooling.

Some of the comments opposing a transition period reflect a misunderstanding of exactly what is required to implement number pooling. As Verizon points out, "[m]uch more is involved than simply having LNP capability."[57] Number pooling, though dependent upon the infrastructure used for LNP, is a completely separate and distinct functionality with its own set of technical requirements. As the Commission recognizes,

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[53] *See, e.g.,* AT&T Comments at 8-10; Bell Atlantic Comments at 8-9; BellSouth Comments at 9-12; CTIA Comments at 13-16; GTE Comments at 9-10; Nextel Comments at 5-6; SBC Comments at 12-13; Sprint Comments at 10-15; Time Warner Comments at 6-7; US WEST Comments at 5; Verizon Comments at 23-24; VoiceStream Comments at 13-16; WorldCom Comments at 13-15.

[54] *See, e.g.,* AT&T Comments at 10 (six months); Bell Atlantic Comments at 9 (nine months); CTIA Comments at 16 ("at least one year"); GTE Comments at 10 ("no less than 12 months"); Nextel Comments at 5 ("at least six months"); PCIA Comments at 14 (six to nine months); SBC Comments at 13 (nine months); Sprint Comments at 10 (at least six months); US WEST Comments at 5 (one year); Verizon Comments at 23 (nine months); VoiceStream Comments at 13 (minimum of eight months).

[55] AT&T Comments at 9-10.

[56] CPUC Comments at 6 (emphasis included).

[57] Verizon Comments at 24.

"[t]housands-block number pooling requires carriers to modify significantly the manner in which they account for their inventory of telephone numbers, including changing their Operations Support Systems (OSSs) and retraining their staff."[58] The implementation of number pooling is a complex undertaking with modifications and costs that are readily distinguishable from the implementation of LNP.

Although state regulators object generally to a transition period, a number of them acknowledge the potential for technical difficulties. For example, both the Maine PUC and Texas PUC encourage the Commission to closely examine claims of technical difficulties.[59] In addition, Time Warner suggests that the Commission permit a transition period upon a demonstration "that simultaneous implementation of LNP and thousands-block pooling is technically infeasible."[60]

The record sets forth a number of technical challenges associated with simultaneous implementation of LNP and pooling. For example, BellSouth and others discuss in detail the technical implications of providing nationwide roaming on a flash-cut basis upon the expiration of LNP forbearance.[61] In addition, several commenters explain the significance of the industry's "quiet period" coinciding with the commencement of LNP and pooling. As PCIA and VoiceStream explain, during the holiday season (November, December, and January), carriers do not make changes to their networks unless absolutely necessary.[62] This "moratorium" exists in large part due to the substantial increase in network usage because of the high holiday calling trends and

[58] *NRO Order*, ¶ 182 (emphasis added).

[59] Maine PUC Comments at 7; TX PUC Comments at 4.

[60] Time Warner Comments at 6-7.

[61] *See, e.g.*, AT&T Comments at 8; BellSouth Comments at 10.

[62] PCIA Comments at 13-14; VoiceStream Comments at 14.

the rapid pace at which new subscribers are added to the network during the peak holiday season. Requiring the implementation of pooling during this "quiet period" would seriously jeopardize network integrity and reliability.

Moreover, the Commission should not be fooled by commenters arguing that a transition period is unnecessary because CMRS carriers can participate in a limited form of pooling by requiring the LEC to port numbers to CMRS carriers. For example, the Joint Consumer Advocates propose "taking blocks of 1,000 numbers of an NXX code where the LRN [Location Routing Number] is assigned to an LNP-capable wireline LEC and porting these to the CMRS provider."[63] Similarly, the Ad Hoc Users Committee suggests that "CMRS carriers can be assigned individual thousands-blocks and be provided those numbers on a ported basis by an LNP-capable carrier until the CMRS provider is itself LNP-capable."[64] The suggestion by the Ad Hoc Users Committee that this function should be assigned solely to wireline LECs, not LNP-capable carriers in general, could be construed as discriminatory.

BellSouth objects to these proposals for a number of reasons. First, the arrangement is technically infeasible at this time. One of the major reasons that CMRS providers were granted additional time to implement LNP functionality was the need to separate the Mobile Identification Number ("MIN") and Mobile Directory Number ("MDN") in order to provide nationwide roaming.[65] In a pre-LNP environment, before

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[63] Joint Consumer Advocates Comments at 21.

[64] Ad Hoc Users Committee Comments at 8.

[65] *See Cellular Telecommunications Industry Association's Petition for Forbearance From Commercial Mobile Radio Services Number Portability Obligations*, WT Docket No. 98-229; *Telephone Number Portability*, CC Docket No. 95-116, *Memorandum Opinion and Order*, 14 FCC Rcd 3092, ¶¶ 27-33. (1999) ("*CMRS Number Portability Forbearance Order*").

this separation is complete, the NPA NXX is used to determine the home service provider of the roamer for registration, routing and billing purposes. If CMRS carriers were to receive thousands blocks via porting, this association would no longer be valid. Thus, implementing this proposal prior to the implementation of LNP and the completion of the MIN/MDN separation will break roaming

The Ad Hoc Users Committee apparently does not fully understand why Type 1 interconnection is undesirable for CMRS providers in an LNP environment. Special interconnection and billing arrangements enable the sharing of NXX codes under a Type 1 approach. Implementing these special arrangements for large quantities of ported or pooled MDNs is impractical. Moreover, in order to support the Location Routing Number ("LRN") method for either porting or pooling, System Signaling 7 ("SS7") is required to launch a query to the service provider's Local Service Management System ("LSMS") and obtain the LRN. Type 1 interconnection does not support SS7.[66] Thus, the suggestion to use a Type 1 interconnection arrangement to support pooling or portability is infeasible.

The Joint Consumer Advocates state that "[a]s long as not more than one CMRS provider is assigned numbers with the same NPA-NXX . . . , there is no reason why this method could not be adopted . . . ."[67] This proposal should be rejected because it violates existing policy and introduces additional operational and administrative burdens. The Commission has "decline[d] to order covered CMRS service providers to speed up their

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[66] *See NANC LNPAWG 2nd Report on Wireless-Wireline Integration*, Sections 1.1 and 5.2 (dated June 30, 1999) (states that wireless service providers may port Type 1 numbers to their mobile switching center, renegotiate their interconnection arrangement, and terminate their Type 1 contract).

[67] Joint Consumer Advocates Comments at 21.

implementation of LNP solely for the purposes of implementing thousand-block number pooling."[68] In order for the industry to implement the proposal by the Joint Consumer Advocates in a pre-LNP environment, CMRS NXXs would have to be treated as portable instead of non-portable. In other words, this proposal would require CMRS carriers to have LNP capabilities, including the ability to designate the NXX as portable. The Joint Consumer Advocates' proposal also violates the policy that the N-1 carrier[69] is responsible for ensuring that a ported, or in this case, pooled number has been queried and properly routed. In situations where a wireless carrier is the N-1 carrier, but is not yet LNP-capable, that wireless carrier is not technically capable of launching a query on undipped pooled numbers. Thus, the proposal by the Joint Consumer Advocates contradicts existing rules and policies and presumes that non-LNP and LNP capable carriers will be able to assume additional responsibilities not mandated today.

Even if it were possible to limit sharing of an NXX code to a single CMRS carrier, additional operational and administrative burdens would exist for CMRS providers. From a wireless perspective, this arrangement would necessitate loading individual pooled telephone numbers into switching tables in order to launch LRN queries and properly process mobile-originated calls to a pooled number. More importantly, this proposed arrangement would significantly expand the NPA NXX roaming tables contained in each switch, perhaps beyond the capacity of the switch. In

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[68] *NRO Order*, ¶ 137.

[69] The "N" carrier is the entity terminating the call to the end user, and the "N-1" carrier is the entity transferring the call to the N, or, terminating carrier. *Telephone Number Portability*, CC Docket No. 95-116, RM 8535, *Second Report and Order*, ¶ 73 n.207 (rel. Aug. 18, 1997).

addition, the procedures and OSS modifications required to implement thousands-block pooling in a wireless service provider's provisioning and billing systems, absent portability, would need to be thoroughly assessed.

* * *

For all of the reasons above, BellSouth urges the Commission to grant a transition period of twelve months after the implementation of wireless LNP before requiring CMRS carriers to commence pooling. CMRS carriers need this time to ensure network reliability, maintain service integrity, and implement OSS and number administration modifications necessary to support thousands-block number pooling.

V. THE NETWORK MODIFICATIONS, OSS MODIFICATIONS, AND COSTS ASSOCIATED WITH IMPLEMENTING NUMBER POOLING ARE SIGNIFICANT, AND ANY COST RECOVERY MECHANISM ADOPTED MUST PROVIDE FULL COST RECOVERY.

Contrary to the statements of some parties, the implementation of number pooling is a complex undertaking with substantial associated costs. A number of commenters erroneously conclude that the implementation of pooling is as simple as flipping a switch or adding a new software package because most of the work has already been done to implement LNP. For example, the New York Department of Public Service ("NYDPS") erroneously states that "[m]ost of the costs for modifications to accommodate thousands-block number pooling have been incurred in connection with local number portability . . . Any additional costs, such as those to change Operational Support Systems, should be minimal."[70] Likewise, the Ad Hoc Users Committee incorrectly states that "the costs of implementing the approved software for thousands-block pooling will be accomplished

[70] NYDPS Comments at 2.

substantially through a one-time software deployment, with minor periodic updates."[71] These statements are simply wrong and reflect a misunderstanding of the extensive network and software modifications required to implement number pooling.

As explained previously in Section IV, number pooling, though dependent upon the infrastructure used for LNP, is a completely separate and distinct functionality with its own set of modifications and technical requirements. As the Commission correctly recognizes, "[t]housands-block number pooling requires carriers to modify significantly the manner in which they account for their inventory of telephone numbers, including changing their Operations Support Systems (OSSs) and retraining their staff."[72] This explanation of the required changes, though accurate, tells only a small part of the story. As the comments of BellSouth, Bell Atlantic, and US WEST demonstrate, the modifications required to implement number pooling are extensive.[73] In addition, contrary to the assertions of some, the carrier-specific costs that would not have been incurred "but for" the implementation of number pooling are far from minimal. For example:

- Bell Atlantic estimates its carrier-specific costs directly related to number pooling (Type 2 costs) to be between $80 and $100 million.[74]

- SBC's estimate of its carrier-specific costs directly related to number pooling is approximately $213.3 million.[75]

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[71] Ad Hoc Users Committee Comments at 18.

[72] *NRO Order*, ¶ 182 (emphasis added).

[73] Bell Atlantic Comments at Attachment A; BellSouth Comments at 19-30; Erratum to US WEST Comments at 4-11and Workpapers 2, 3 (filed May 22, 2000).

[74] Bell Atlantic Comments at 4.

[75] SBC Comments at 3. This figure underestimates total costs because SBC excluded the costs associated with its participation in state-ordered pooling trials. SBC Comments at 3.

- According to US WEST's preliminary assessment, it will incur more than $345 million in recoverable expenses to implement pooling.[76]

Clearly, these costs are not inconsequential and must be subject to full cost recovery.

As stated in BellSouth's initial comments filed on May, 19, 2000, it will incur significant costs directly related to implementing number pooling. Since BellSouth has not yet completed its planning and analysis nor finalized contracts with all of its vendors, an estimate of the total costs is not available. However, preliminary estimates indicate that BellSouth's carrier-specific costs directly related to number pooling (Type 2 costs) will exceed $250 million. By mid-July, BellSouth expects to have an estimate of its total costs.

In addition to the Type 2 costs described above, each carrier will incur shared industry costs (Type 1 costs) for number pooling administration. Several commenters provide preliminary estimates of these shared industry costs. Bell Atlantic estimates that, over a five-period, its portion of the shared industry costs will be between $25 and $35 million.[77] SBC estimates that its allocated share of Type 1 costs will be $8 million.[78] Finally, GTE's estimate of the total shared industry costs for the years 2000 through 2004 is between $50 and $90 million.[79]

In order to achieve full recovery of the costs identified above, BellSouth recommends that the Commission adopt a similar cost recovery mechanism as that established in the number portability proceeding. BellSouth believes that Bell Atlantic's proposal to allow ILECs to recover their carrier-specific pooling costs directly related to

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[76] US WEST Redacted Comments at 4.

[77] Bell Atlantic Comments at 3.

[78] SBC Comments at 3.

[79] GTE Comments at 14.

implementing pooling "either by extending the duration of the number portability tariff" or "by increasing [the existing] surcharge"[80] is an appropriate framework. Sprint similarly proposes that the Commission "permit the ILECs to continue the already tariffed LNP charge for a short-time following the original five-year end date."[81] These solutions are advantageous because they can be easily implemented through a simple tariff revision and are "more easily explained to customers than the introduction of a new charge for a short period of time."[82] Thus, the most efficient and competitively neutral approach is to either increase the amount of the existing LNP end-user charge or extend the duration of the number portability tariff.

The record demonstrates that the costs savings associated with number pooling will be minimal and will in no way offset the costs incurred to implement pooling. As a threshold matter, it is difficult to assess the true benefits derived from pooling since this conservation measure is in its early stages. As Bell Atlantic states, "[w]hile the costs of Commission-mandated pooling are clear, the near-term benefits are less obvious and even more difficult to quantify."[83] The industry, state commissions, the FCC, and the public need more experience with pooling before the true value of pooling can be ascertained.

BellSouth therefore cautions the Commission against placing too much emphasis on the potential savings derived from pooling. As BellSouth and SBC both explain, number pooling may extend the life of specific NPAs, but it does not eliminate the need for NPA relief.[84] BellSouth estimates that the costs it incurs to implement a single NPA

80 Bell Atlantic Comments at 6-7.

81 Sprint Comments at 19.

82 *Id.*

83 Bell Atlantic Comments at 4.

84 BellSouth Comments at 19; SBC Comments at 4-5.

split typically range between $5 and $8 million. Overlays are less expensive because they require less OSS conversion and translation work.[85] Thus, on an NPA-by-NPA basis, the only cost savings from number pooling would be the time value of money associated with the deferral of NPA relief, and such cost savings would be minimal.[86] As SBC points out, "[e]ven if some area code relief costs would be deferred by implementing number pooling, the value of such deferral likely would be small compared to the costs of implementing number pooling."[87] Bell Atlantic calculates the present value of savings from Commission-mandated pooling to be approximately $8 to $14 million.[88] These figures are small in comparison to the estimated costs incurred to implement pooling. Thus, while the Commission may factor potential savings into the calculation for determining the costs associated with pooling, it is clear that the costs associated with pooling far outweigh the potential savings and must be subject to full cost recovery.

VI. CONCLUSION

For all of the forgoing reasons, BellSouth urges the Commission to take the following actions:

(1) The Commission should reverse its decision to impose a utilization threshold requirement on non-pooling carriers;

(2) If the Commission proceeds with the adoption of a utilization threshold requirement, it should:

[85] A translation is a process in which an employee prepares tables to identify the proper routing for a switch.

[86] GTE Comments at 15.

[87] SBC Comments at 5.

[88] Bell Atlantic Comments at 6.

(a) modify the formula for calculating utilization to include aging, administrative, reserved, and intermediate numbers to more accurately reflect those numbers unavailable for assignment;

(b) using the modified formula, set the initial threshold at 60 percent with five percent annual increases;

(c) continue to exempt pooling carriers from complying with a utilization threshold;

(d) establish a single utilization threshold that applies only in "shortage" situations and does not distinguish among different types of non-pooling carriers;

(e) establish a utilization threshold that is calculated at the rate center level, or at the switch level if a carrier operates multiple switches in a single rate center;

(f) ensure that non-pooling carriers with low utilization can still obtain growth codes if a legitimate business need exists; and

(g) prohibit states from adopting their own utilization thresholds.

(3) The Commission should grant CMRS carriers a transition period of twelve months after the implementation of wireless LNP to begin pooling.

(4) The Commission should recognize that the network modifications, OSS modifications, and costs associated with implementing number pooling are substantial and allow carriers to recover these costs through a federal surcharge on end users, preferably through the existing charge for local number portability.

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CERTIFICATE OF SERVICE

I do hereby certify that I have this 9th day of June, 2000, served the following parties to this action with a copy of the foregoing ***REPLY COMMENTS OF BELLSOUTH***, reference CC Docket No. 99-200, by hand delivery, Federal Express, or by placing a true and correct copy of the same in the United States Mail, postage prepaid, addressed to the parties as set forth on the attached service list.

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